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CELLSPIN SOFT, INC.,
Plaintiff,
v.
FITBIT LLC,
Defendant.

Case No. 17-cv-05928-YGR
Case No. 17-cv-5931-YGR
Case No. 17-cv-5932-YGR
Case No. 17-cv-5933-YGR
Case No. 17-cv-5934-YGR
Case No. 17-cv-5936-YGR

SCHEDULING PRETRIAL ORDER

TO ALL PARTIES AND COUNSEL OF RECORD:

On November 1, 2021, the Court conducted a case management conference with the parties. Upon further reflection, the Court finds this set of cases would benefit from a full revised schedule which it has constructed, in part, from the parties' joint submission. Accordingly, the Court hereby sets the following trial and pretrial dates:

PRETRIAL SCHEDULE

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| DEFENDANTS' DEADLINE TO FILE LETTERS REQUESTING LEAVE TO FILE MOTIONS FOR SUMMARY JUDGMENT | December 6, 2021 |
| PLAINTIFF'S DEADLINE TO RESPOND TO DEFENDANTS' LETTER REQUESTING LEAVE | December 13, 2021 |
| PRE-FILING HEARING ON LEAVE TO FILE MOTIONS FOR SUMMARY JUDGMENT ¹ | December 16, 2021 at 9:00 a.m. |
| DAUBERT AND SUMMARY JUDGMENT MOTION DEADLINE | December 23, 2021 |
| DAUBERT AND SUMMARY JUDGMENT OPPOSITION DEADLINE | January 20, 2022 (extended in recognition of the holiday season) |
| DAUBERT AND SUMMARY JUDGMENT REPLY DEADLINE | February 3, 2022 |

¹ See Standing Order regarding Pre-filing Conference Requirements for motions for summary judgment.

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| 1 | HEARING ON DISPOSITIVE MOTIONS | February 25, 2022 |
| 2 | EXCHANGE OF EXHIBITS (PURSUANT TO PARAGRAPH 6 OF STANDING ORDER RE: PRETRIAL INSTRUCTIONS IN CIVIL CASES) | March 25, 2022 |
| 4 | EXCHANGE OF MOTIONS <i>IN LIMINE</i> (PARAGRAPH 4) | April 1, 2022 |
| 5 | COMPLIANCE JOINT STATEMENT (SEE PAGE 2) | April 8, 2022 |
| 6 | OPPOSITIONS TO UNRESOLVED MOTIONS <i>IN LIMINE</i> (PARAGRAPH 4) | April 15, 2022 |
| 8 | COMPLIANCE HEARING (SEE PAGE 2) | Friday, April 15, 2022 at 9:01 a.m. |
| 9 | JOINT PRETRIAL CONFERENCE STATEMENT (PARAGRAPH 2) | April 19, 2022 |
| 11 | JOINT TRIAL READINESS BINDERS (PARAGRAPH 3) | April 22, 2022 |
| 12 | PRETRIAL CONFERENCE | Friday, May 6, 2022 at 9:00 a.m. |
| 13 | TRIAL DATE | Monday, May 23, 2022 at 8:30 a.m. |

15 During the November 1, 2021 hearing, each defendant informed the Court that it intends to
16 request leave to file a motion for summary judgment. Each defendant also intends to submit a
17 *Daubert* motion addressing plaintiff's three expert witnesses. To streamline the parties' disputes,
18 each party is limited to one *Daubert* motion for all three expert witnesses. The Court sets the page
19 limits to 35 pages apiece for each individual party's *Daubert* motion and opposition, and 20 pages
20 apiece for reply briefs. To the extent the defendants' arguments concerning plaintiff's expert
21 witnesses overlap, the Court permits the defendants to submit one single, joint, additional brief in
22 support of the collective *Daubert* motions not to exceed 20 pages.

23 Pursuant to the Court's Pretrial Instructions in Civil Cases at Paragraph 2, trial counsel
24 shall meet and confer in advance of the Pretrial Conference. The compliance hearing on Friday,
25 April 15, 2022 at 9:01 a.m. is intended to confirm that counsel have reviewed the Court's Pretrial
26 Setting Instructions and are in compliance therewith. The compliance hearing shall be held in the
27 Federal Courthouse, 1301 Clay Street, Oakland, California, in Courtroom 1. Five (5) business
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1 days prior to the date of the compliance hearing, the parties shall file a one-page JOINT
2 STATEMENT confirming they have complied with this requirement or explaining their failure to
3 comply. If compliance is complete, the parties need not appear and the compliance hearing will be
4 taken off calendar. Telephonic appearances will be allowed if the parties have submitted a joint
5 statement in a timely fashion. Failure to do so may result in sanctions.

6 Parties are advised that while the Court set a trial date in this action, the trial date may be
7 advanced if the calendar opens. Said trial date will not be sooner than eight (8) weeks after the
8 close of discovery.

9 Modification to the timing or extent of parties' discovery obligations under Fed. R. Civ. P.
10 26 and other applicable rules may be done pursuant to a separate Court Order. The parties are
11 directed to submit a JOINT proposed order to the Court within five (5) business days following
12 the date of the Case Management Conference which sets forward the modifications.

13 The parties must comply with both the Court's Standing Order in Civil Cases and Standing
14 Order for Pretrial Instructions in Civil Cases for additional deadlines and procedures. The dates
15 listed in the above table at Page 1 control where there are conflicts, if any, between the above
16 schedule and the timing described in the Court's Standing Order. All Standing Orders are
17 available on the Court's website at <http://www.cand.uscourts.gov/ygrorders>.

18 **IT IS SO ORDERED.**

19 Dated: November 5, 2021

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21 YVONNE GONZALEZ ROGERS
United States District Judge

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